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November 4, 2003

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NOV - 4 2003

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
236 Massachusetts Ave., NW, Suite 110  
Washington, DC 20002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In the Matter of Federal-State Joint Board on Universal Service  
Centennial Cellular Tri-State Operating Partnership  
Centennial Claiborne Cellular Corp.  
Petition for Waiver of Section 54.313(d)(3) of the Commission's Rules  
CC Docket No. 96-45

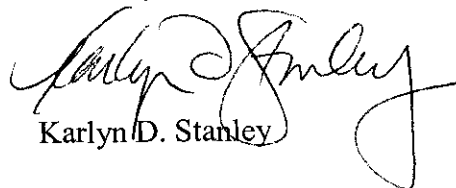
Dear Ms. Dortch:

Enclosed for filing in the above proceeding please find the original and four (4) copies, of  
*Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp.*  
*Petition For Waiver of Section 54.313(D) of The Commission's Rules*

Also enclosed is a "Stamp and Return" copy of this filing which we ask be stamped  
with the FCC's date of filing and then returned to our messenger.

Thank you for your assistance.

Sincerely,

  
Karlyn D. Stanley

Enclosures

cc: Service List

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NOV - 4 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
Federal-State Joint Board on Universal Service ) CC Docket No. 96-45  
Centennial Cellular Tri-State Operating Partnership )  
Centennial Claiborne Cellular Corp. )  
Petition for Waiver of Section 54.313(d)(3) )  
of the Commission's Rules )

**WAIVER - EXPEDITED ACTION REQUESTED**

**CENTENNIAL CELLULAR TRI-STATE OPERATING PARTNERSHIP  
AND CENTENNIAL CLAIBORNE CELLULAR CORP.  
PETITION FOR WAIVER OF SECTION 54.313(d) OF THE COMMISSION'S RULES**

Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. (collectively "Centennial"), pursuant to Sections 1.3 and 1.925 of the Commission's rules,<sup>1</sup> hereby petitions the Commission for a waiver of the April 1, 2003 filing deadline set forth in Section 54.313(d) of the Commission's rules. Approval of this waiver request will allow Centennial to receive universal service support in Mississippi beginning on September 24, 2003, the date the Mississippi Public Service Commission ("MPSC") designated Centennial as an Eligible Telecommunications Carrier ("ETC").

**BACKGROUND**

Centennial is a Commercial Mobile Radio Service ("CMRS") carrier serving cellular customers in fifteen (15) counties in Mississippi, with the greatest population of subscribers in

<sup>1</sup> See 47 C.F.R. §1.3; 47 C.F.R. §1.925. Pursuant to §1.1105 of the Commission's rules, there is no filing fee associated with this request.

the southwestern region of the state. On April 4, 2003, Centennial submitted an application to the MPSC requesting designation as an ETC in Mississippi. On September 24, 2003, the MPSC approved Centennial's application for the non-rural areas of Centennial's service areas and issued an Order designating Centennial as an ETC in Mississippi for the purpose of receiving federal universal service support in non-rural areas.<sup>2</sup> Centennial is eligible to receive rural high-cost universal service support pursuant to Section 54.307 of the Commission's rules, which provides for support to competitive ETCs.<sup>3</sup>

Section 54.313 of the Commission's rules sets forth the requirements for state certification of support for non-rural carriers. States that desire universal service high-cost support for non-rural ETCs must file an annual certification by October 1 with the Universal Service Administrative Company ("USAC") and this Commission stating that all high-cost support received by non-rural ETCs within the state will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended" (hereinafter referred to as a "Section 54.313 Certification").<sup>4</sup> Section 54.313(d) establishes a quarterly filing schedule that determines when an ETC may begin receiving support during the calendar year.<sup>5</sup> Universal service support will only be provided to a non-rural ETC in a state to the extent the state has filed the requisite certification.

On September 29, 2003, the first Section 54.313 Certification deadline following Centennial's ETC designation, the MPSC filed a Section 54.313 Certification with this

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<sup>2</sup> *Application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. for Designation as Eligible Telecommunications Carriers*, Docket No. 2003-UA-0234, Order (September 24, 2003). A copy of the Order is attached as Exhibit A.

<sup>3</sup> See 47 C.F.R. § 54.307.

<sup>4</sup> See 47 C.F.R. § 54.313.

<sup>5</sup> Pursuant to Section 54.313(d), a state's certification must be filed by October 1 of the preceding calendar year for eligible carriers to receive support beginning in the first quarter of the subsequent calendar year. If the

Commission and USAC certifying Centennial as eligible to receive federal universal service funds.<sup>6</sup> However, due to the April 1 filing deadline set forth in Section 54.313(d) of the Commission's rules, Centennial will be denied universal service support for September 24-30, 2003, and for the entire fourth quarter of 2003 unless the Commission grants this waiver request.

As set forth below, a waiver of the April 1, 2003 filing deadline will allow Centennial to receive universal service support beginning on the date it was designated as an ETC in Mississippi. Such action would be consistent with Commission precedent, consistent with the Commission's well-established competitively neutral universal service policies, and would serve the public interest.

### **REQUEST FOR WAIVER**

Section 1.3 of the Commission's rules provides the Commission with discretion to waive application of any of its rules upon a showing of good cause. In addition, Section 1.925(b)(3) provides for waiver where it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>7</sup>

Federal courts also have recognized that "a waiver is appropriate only if special circumstances warrant a deviation from the general rule and such a deviation would serve the

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October deadline is missed, the certification must be filed by January 1 for support to begin the second quarter, by April 1 for support to begin in the third quarter, and by July 1 for support to begin in the fourth quarter.

<sup>6</sup> See Mississippi Public Service Commission October 1<sup>st</sup> Certification Requirement for Non-Rural Carriers, dated September 24, 2003, filed with USAC and the FCC on September 29, 2003.

<sup>7</sup> See 47 C.F.R. §1.925(b)(3).

public interest.”<sup>8</sup> Accordingly, the Commission “may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.”<sup>9</sup>

The Commission established the quarterly Section 54.313 Certification filing schedule to facilitate USAC’s ability to report universal service support projections to the FCC. In adopting the schedule, the FCC did not intend to create a process that disadvantages carriers receiving ETC designation subsequent to one of the quarterly certification deadlines. The April 1, 2003 filing deadline for third and fourth quarter 2003 support fell more than 5 months prior to Centennial’s ETC designation by the MPSC. Thus, it is clear that the MPSC could not have met, under any circumstances, the deadline required for Centennial to receive support beginning in the third quarter of 2003.

As the Commission has previously concluded, strict application of the Section 54.313(d) Certification filing schedule is inconsistent with the public interest and undermines the Commission’s goals of competitive neutrality when a carrier is denied universal service support it is otherwise entitled to receive. In granting waiver requests to competitive ETCs in similar circumstances as Centennial, the Commission has acknowledged that strict application of the certification filing schedule may have the effect of penalizing newly designated ETCs. For that reason the Commission has determined that it would be “onerous” to require an ETC to forego universal service support solely because it was designated as an ETC after a certification deadline.<sup>10</sup>

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<sup>8</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see also WAIT Radio v.FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

<sup>9</sup> *Northeast Cellular Telephone Co.*, 897 F.2d at 1166 (citing *WAIT Radio* 418 F.2d at 1159).

<sup>10</sup> *RFB Cellular, Inc. Petition for Waiver of Sections 54.314(d) and 54.307(c) of the Commission’s Rules and Regulations*, Order, 7 FCC Rcd 24387, para. 6 (“RFB Waiver Order”); *Guam Cellular and Paging, Inc. Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, Order, CC Docket No. 96-45, DA 03-1169 (rel. April 17, 2003)(“Guamcell Waiver Order”); *Western Wireless Corporation Petition for*

It would be onerous to deny Centennial receipt of universal service support for more than three months because its ETC designation occurred after the Section 54.313 Certification filing deadline for receipt of third and fourth quarter support.<sup>11</sup> Centennial's circumstances are similar to the circumstances of several competitive ETCs that have been granted waiver of the filing deadlines set forth in Section 54.314(d), the rural counterpart to Section 54.313(d).<sup>12</sup> Accordingly, denying support to Centennial, a competitive ETC, merely because of the timing of its ETC designation would undermine the Commission's goals of competitive neutrality.

Moreover, the Section 54.313 Certification filing schedule creates an unintended consequence with respect to Centennial in Mississippi by delaying universal service support beyond the date of its ETC designation. This result is inconsistent with and frustrates the underlying purpose of the Commission's rules, and is inequitable and unduly burdensome to Centennial.

For the reasons stated herein, Centennial submits that granting a waiver of the filing deadline set forth in Section 54.313(d) of the rules will allow Centennial to receive universal service support beginning on September 24, 2003, the date it received ETC designation in Mississippi. Such action is appropriate and consistent with Commission precedent, consistent with the Commission's statutory goal of preserving and advancing universal service, and in the public interest.

### **REQUEST FOR EXPEDITED TREATMENT**

Centennial requests expedited action on this waiver request. Centennial and the Mississippi consumers that it serves should not be deprived of universal service support for more

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*Waiver of Sections 54.314 of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, DA 03-2364 (rel. July 18, 2003) ("Western Wireless Order").

<sup>11</sup> See *Western Wireless Order*, para. 7.

<sup>12</sup> See *RFB Waiver Order*, *GuamCell Order*, *Western Wireless Order*.

than three months as a result of the unintended timing problem created by the quarterly filing deadlines of Section 54.313(d). Denying Centennial support for September 24-30, 2003 and the entire fourth quarter of 2003 under these circumstances is contrary to the statutory goal of promoting the availability of universal service to consumers in high-cost and rural areas. For that reason, expedited action is in the public interest.

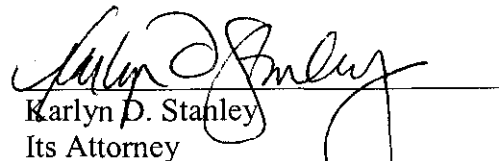
### **CONCLUSION**

For the reasons stated herein, Centennial respectfully requests, pursuant to Sections 1.3 and 1.925 of the FCC's rules, a waiver of Section 54.313(d) of the Commission's rules; and expedited consideration of this waiver request.

Respectfully submitted,

**Centennial Cellular Tri-State Operating Partnership  
Centennial Claiborne Cellular Corp.**

By:



Karlyn D. Stanley  
Its Attorney

**COLE, RAYWID & BRAVERMAN, L.L.P.**  
1919 Pennsylvania Avenue, NW  
Suite 200  
Washington, D.C. 20006  
(202) 659-9750

November 4, 2003

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# Exhibit A



**BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION**

APPLICATION OF  
Centennial Cellular Tri-State Operating  
Partnership and Centennial Claiborne Cellular  
Corp. for Designation as an Eligible  
Telecommunications Carrier Pursuant to Section  
214(e)(6) of the Communications Act Of 1934

Docket No. 2003-UA-0234

**ORDER**

THIS DAY, there came on for consideration by the Mississippi Public Service Commission ("Commission") the Application of Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. ("Centennial") for designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended ("Act"), 47 U.S.C. §214(e)(2), and Section 54.201 of the Federal Communication Commission's ("FCC") Rules, 47 C.F.R. §54.201. In this proceeding, Centennial seeks designation as an ETC in the geographic areas within its licensed service area in Mississippi that are served by BellSouth Telecommunications, Inc. ("BellSouth"). The Commission, being fully apprised in the premises and having considered the documents, responses of Centennial to discovery requests submitted by the Mississippi Public Utilities Staff ("MPUS"), and the record before it, as authorized by law and upon recommendation of the MPUS, finds as follows, to-wit:

1. On April 4, 2003, Centennial filed with the Commission an Application pursuant to Section 214(e) of the Act, requesting designation as an ETC in the non-wireline cellular service markets designated as RSA 8 and RSA 9 in Mississippi (the "Centennial Service Markets").

2. The Commission has jurisdiction to enter this Order, and entry hereof is in the public interest.

3. Due and proper notice of the Application was given to all interested parties as required by law and the Commission's Public Utilities Rules of Practice and Procedure.

4. BellSouth and several rural independent telephone companies intervened and became parties of record in this matter.

5. On June 11, 2003, Centennial filed a Motion for Bifurcation requesting that the Commission bifurcate the issue of whether Centennial should be designated as an ETC in the geographic areas within the Centennial Service Markets that are served by BellSouth from the issue of whether Centennial should be designated as an ETC in the geographic areas within the Centennial Service Markets that are served by rural independent telephone companies. On August 28, 2003, the Commission issued an Order bifurcating the issues in the manner requested by Centennial in its Motion for Bifurcation and continued the case as to the issue of Centennial's ETC designation in the geographic areas within the Centennial Service Markets that are served by rural independent telephone companies.

6. Pursuant to 47 U.S.C. § 214(e) and FCC Rule § 54.201, to qualify under federal law as a telecommunications carrier eligible for universal service funding, carriers must satisfy certain requirements or qualify for a waiver of those requirements. An ETC must offer the following services:

- a. Voice grade access to the public switched network;
- b. Local usage;
- c. Dual tone multi-frequency signaling or its functional equivalent;
- d. Single-party service or its functional equivalent;

- e. Access to emergency services;
- f. Access to operator services;
- g. Access to interexchange services;
- h. Access to directory assistance; and
- i. Toll limitations services for qualifying low-income customers.

7. Qualified ETCs must offer these services either using their own facilities or a combination of their own facilities and the resale of services of another facilities-based carrier. ETCs must advertise the availability of, and the prevailing prices for, the universal services throughout the area in which they have been designated as an ETC. Centennial satisfies these requirements and shall continue to comply with each of these provisions regarding service provision and offerings.

8. Centennial will advertise the availability of the above-referenced services and related charges using media of general distribution in its designated service area as required by Section 254(e)(1)(B) of the Act and Section 54.201(d)(2) of the FCC's Rules.

9. The Commission finds that Centennial is capable of providing the services required for ETC designation and is capable of providing such services with an adequate degree of quality.

10. The Commission finds that Centennial will provide service through its own facilities and its existing interconnection arrangements with BellSouth Telecommunications and has committed to serve all subscribers upon request in the Centennial Service Markets.

11. The Commission finds that an ETC designation to Centennial can at a future time be modified or changed by subsequent Order of this Commission.

12. The Commission finds that ETC designation cannot be granted solely based on resale. Therefore, the Commission finds that Centennial shall provide service either through its own facilities or a combination of its own facilities and resale to all subscribers upon request in its designated service area.

13. Centennial shall also offer Lifeline and Linkup services pursuant to Centennial's Lifeline and Linkup tariffs which were filed with this Commission on September 23, 2003 in this Docket.

The Commission, having jurisdiction of the parties and the subject matter, and having considered Centennial's Application and the evidence in support thereof, finds that Centennial is entitled to be granted designation as an ETC in the geographic areas within the Centennial Service Markets that are served by BellSouth based on timely complying with all conditions expressed in this Order.

**IT IS, THEREFORE, ORDERED:**

1. Centennial is designated as an Eligible Telecommunications Carrier in the geographic areas within the Centennial Service Markets that are served by BellSouth as listed in Exhibit A. Centennial shall provide services and functionalities supported by universal service over its existing cellular network infrastructure and through existing interconnection arrangements with BellSouth Telecommunications.
2. This Commission retains continuing jurisdiction to review, modify, or revoke its designation of Centennial as an ETC. Centennial is conditionally designated an ETC in the geographic areas within the Centennial Service Markets that are served by BellSouth. This ETC designation is for federal universal service funds,

and is based on federal rules and guidelines, as they exist today. Should the Universal Service Administrative Company or any other agency revise contribution or disbursement requirements that would directly impact the State of Mississippi and its consumers, the Commission retains its jurisdiction to review, modify and/or revoke its designation of Centennial as an ETC. Additionally, should any information supplied by Centennial in this docket be inaccurate, the designation of Centennial as an ETC may be revoked.

3. The entire file of the Commission, as well as all responses to all discovery requests of the MPUS, are specifically made a part of the record in this matter.
4. This Order is effective as of the date hereof.

SO ORDERED, this 24<sup>th</sup> day of September, 2003.

Chairman Michael Callahan voted ay; Vice Chairman Bo Robinson voted Aye;

Commissioner Nielsen Cochran voted aye.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Michael Callahan  
MICHAEL CALLAHAN, Chairman

Bo Robinson  
BO ROBINSON, Vice Chairman

Nielsen Cochran  
NIELSEN COCHRAN, Commissioner

ATTEST: A TRUE COPY

Brian U. Ray  
BRIAN U. RAY  
Executive Secretary

# Exhibit A

Centennial Operating Entity	Rate Center	CLLIs	ILEC
Centennial Cellular Tri-State Operating Partnership	Mendenhall	MNDNMSMARS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Crystal Springs	CRSPMSMARS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Hazlehurst	HZLHMSMARS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Magee	MAGEMSMADS0	Bell South
Centennial Cellular Tri-State Operating Partnership	Wesson	WSSNMSMADS1	Bell South
Centennial Cellular Tri-State Operating Partnership	Columbia	CLMAMSMARS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Tylertown	TYTWMSMCRS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Monticello	MNTIMSMADS1	Bell South
Centennial Cellular Tri-State Operating Partnership	Columbia	CLMAMSMARS9	Bell South
Centennial Cellular Tri-State Operating Partnership	Brookhaven	BRHNMSMADS0	Bell South
Centennial Cellular Tri-State Operating Partnership	Tylertown	TYTWMSMCRS9	Bell South
Centennial Claiborne Cellular Corp.	Fayette	FYTTMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Port Gibson	PGSNMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Natchez	NTCHMSMADS0	Bell South
Centennial Claiborne Cellular Corp.	Brookhaven	BRHNMSMADS0	Bell South
Centennial Claiborne Cellular Corp.	Mccomb	MCCMMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Centreville	CNVIMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Gloster	GLSTMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Liberty	LBRTMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Magnolia	MGNLMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	South Osyka	OSYKMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Roxie	ROXIMSMARS9	Bell South
Centennial Claiborne Cellular Corp.	Woodville	WDVLMSMARS9	Bell South

## CERTIFICATE OF SERVICE

I, Debra Sloan, hereby certify that on this 4th day of November, 2003, I caused a copy of the foregoing *Petition for Waiver* to be sent via hand delivery(\*), or U.S. Mail to the following:

\*Eric Einhorn  
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Wireline Competition Bureau  
Federal Communications Commission  
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Debra Sloan